

Author: Jones & Laird Analyst: Darrine Distefano Bill Number: AB 2485Related Bills: None Telephone: 845-4142 Introduced Date: February 23, 2006Attorney: Patrick Kusiak Sponsor: _____**SUBJECT:** California Sea Otter Fund**SUMMARY**

This bill would establish the California Sea Otter Fund for taxpayers to designate a contribution on the personal income tax return.

PURPOSE OF THE BILL

According to the author's office, the intent of this bill is to provide additional funding for the support of reducing the mortality rate of California sea otters.

EFFECTIVE/OPERATIVE DATE

This bill would become effective January 1, 2007, and would appear on the 2008 tax return.

POSITION

Pending.

ANALYSIS**FEDERAL/STATE LAW**

Current federal tax law allows each taxpayer to direct \$3 of a taxpayer's tax liability to the presidential election fund. Designation of the \$3 amount does not affect a taxpayer's tax liability or refund amount.

Current state tax law allows taxpayers to make contributions of their own funds (not tax liability) on their tax returns to any of the voluntary contribution funds listed on the state personal income tax return. Each fund provides for the reimbursement of the Franchise Tax Board's (FTB's) and the Controller's actual costs to administer the fund prior to receiving the balance of any designated contributions.

With the exception of the California Seniors Special Fund, the California Firefighters Memorial Fund, and the California Peace Officer Foundation Memorial Fund, each voluntary contribution

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input checked="" type="checkbox"/> PENDING

Department Director

Date

S. Stanislaus

4/12/06

fund must meet a minimum contribution of \$250,000 that is adjusted annually for inflation. The annual inflation adjustment is based on the percentage change in the Consumer Price Index determined each year.

The department will estimate by September 1 of each year, using the actual amount known to be contributed to each fund, combined with an estimate of the remaining year's contributions, whether the funds are projected to receive the required minimum donation for that year. If a fund does not receive the minimum requirement, the fund is removed from the return in the following year and replaced with another legislatively authorized fund.

Because the Consumer Price Index data is not received until August of each year, the most current calculations available are for the 2004 tax year. Appendix 1 reflects the contributions received for each fund in 2004 and the amount required to be contributed to remain on the return for the 2005 tax year, as well as the specific sunset dates for each voluntary contribution fund.

THIS BILL

This bill would fund a full-time warden within the Department of Fish and Game, research, and programs for the California sea otter by creating a voluntary contribution designation on the state personal income tax return.

This bill would establish the California Sea Otter Fund. This bill would allow taxpayers to designate their own funds, not tax liability, for contribution to the fund on their Personal Income Tax (PIT) returns in full dollar amounts of \$1 or more. Each signatory on a joint return may make the contributions individually. The designations for any taxable year must be made on the initial return for the taxable year and, once made, are irrevocable.

This bill would require FTB to revise the tax return to include a designation space for the fund beginning with the first taxable year another voluntary contribution fund is removed. The bill contains a specific statement of legislative intent that the 2008 tax return include a space for the California Sea Otter Fund.

Beginning after the second taxable year, this bill would require the fund to meet the \$250,000 minimum contribution test. FTB is required to estimate by September 1 of the calendar year after the second taxable year the fund appears on tax returns whether contributions made under this bill will be less than \$250,000, as indexed for inflation. The law authorizing designations to this fund would be repealed if contributions made under this bill will be less than the minimum contribution amount.

This bill would allow the voluntary contribution designation to remain on the tax return for five years, unless a later enacted statute deletes or extends that date.

This bill would specify that if payments and credits reported on the return do not exceed the taxpayer's liability, then the taxpayer's return shall be treated as if no designation has been made. If no designee were specified, a designated contribution amount would be transferred to the General Fund.

This bill would require the State Controller to transfer money designated for this fund by taxpayers from the Personal Income Tax Fund to the California Sea Otter Fund. Upon appropriation by the Legislature, the moneys from this fund must be allocated to: 1) FTB and the Controller for reimbursement of costs incurred in administering this fund, 2) Department of Fish and Game for the purposes of employing a full-time warden, and the balance, if any 3) to the California Coastal Conservancy for research and programs related to sea otters.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would require some changes to existing tax forms and instructions and information systems, which could be accomplished during the normal annual update.

The bill states the Legislature's intent to add the California Sea Otter Fund to the 2008 tax return. A recent law created a formal queuing process for adding voluntary contribution funds to the California personal income tax return. Thus, if this bill is enacted and either an existing voluntary contribution fund falls off the return or FTB determines space exists to add a new fund to the return, the California Sea Otter Fund could be added to the personal income tax return for the 2007 tax year.

PROGRAM BACKGROUND

Fourteen voluntary contribution funds appeared on the 2005 California personal income tax returns. Total contributions to these funds have varied from approximately \$3.4 million in 1989/1990 to approximately \$4 million in 2004/2005. The number of individuals contributing (first tabulated in 1993) remains fairly constant at approximately 110,000, or slightly less than one percent of all taxpayers.

FISCAL IMPACT

This bill would not significantly impact the department's costs.

ECONOMIC IMPACT

Revenue Estimate

Based on the discussion below, the revenue loss from this bill is as follows:

Revenue Impact Effective Taxable Years On or After January 1, 2008 Assumed Enactment Date After June 30, 2006 California Sea Otter Fund			
Fiscal Year	2007-2008	2008-2009	2009-2010
Revenue Loss	N/A	N/A	-\$15,000

Any possible changes in employment, personal income, or gross state product that might result from this bill are not taken into account.

Revenue Discussion

For this estimate it is assumed that the minimum level contribution of \$250,000 is achieved each year that the fund is placed on the return and that an itemized deduction is allowed and claimed for each contribution. By applying an average marginal tax rate of 6%, it is estimated that potential revenue losses total \$15,000 ($\$250,000 \times 6\% = \$15,000$). The revenue impact starts with the taxable year the itemized deduction is claimed on the tax return. The loss would be attributable to itemized deductions claimed for the contributions in the taxable year following the contributions.

LEGISLATIVE STAFF CONTACT

Darrine Distefano
Franchise Tax Board
845-4142
darrine.distefano@ftb.ca.gov

Brian Putler
Franchise Tax Board
845-6333
Brian.Putler@ftb.ca.gov

APPENDIX 1
Voluntary Contributions to Charitable Organizations
Tax Year 2004

Voluntary Contribution Fund	Amount Required	Amount Received
CA Fund for Senior Citizens	\$ 277,720	\$ 296,136
Rare & Endangered Species Preservation Fund	\$ 266,864	\$ 624,264
State Children's Trust Fund for the Prevention of Child Abuse	\$ 266,864	\$ 581,772
Alzheimer's Disease/Related Disorders Fund	\$ 287,528	\$ 525,594
CA Seniors Special Fund	No Minimum	\$ 55,524
Ca Breast Cancer Research Fund	\$ 308,425	\$ 636,319
CA Firefighters' Memorial Fund*	No Minimum	\$ 187,132
Emergency Food Assistance Program Fund	\$ 285,192	\$ 399,876
CA Peace Officer Memorial Foundation Fund*	No Minimum	\$ 183,269
CA Military Family Relief Fund	\$ 250,000	\$ 282,106
CA Prostate Cancer Research Fund	\$ 250,000	\$ 188,025
CA Sexual Violence Victim Services Fund	Not enacted until 2005	
Veterans Quality of Life Fund	Not enacted until 2005	
CA Colorectal Cancer Prevention Fund	Not enacted until 2005	

*Ca Firefighters' Memorial Fund and CA Peace Officer Foundation Memorial Fund are only subject to the \$250,000 minimum contribution amount if their repeal dates are specifically deleted in new legislation.